

SHER TREMONTE LLP

November 6, 2023

The hearing is adjourned until January 23, 2024 at 10 a.m. In the meantime, briefing on the Defendant's 2255 Motion is set as follows: Defendant's submission is due on December 1, 2023. The Government's reply is due on December 15, 2023. The Defendant's reply, if necessary, is due on December 22, 2023.

BY ECF

The Honorable Alvin K. Hellerstein
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

SO ORDERED.

Dated: November 6, 2023
New York, New York

Re: *United States v. Manuel Pimenteo, 13-CR-58 (AKH)*

/s/ Alvin K. Hellerstein
Alvin K. Hellerstein
United States District Judge

Dear Judge Hellerstein:

As you know, we represent Manuel Pimenteo in connection with his pending violation of supervised release. We respectfully submit this letter, with the consent of the Government, to request that the violation of supervised release hearing currently scheduled for November 13, 2023, be adjourned so that Mr. Pimenteo can fully brief his pending motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 (the “2255 Motion”). ECF 580.

On June 24, 2016, Mr. Pimenteo moved, pursuant to 28 U.S.C. § 2255 and the Southern District’s Standing Order of June 8, 2016, to vacate his conviction under 18 U.S.C. § 924(c). ECF 580. The initial § 2255 filing was only a placeholder form filed by the Federal Defenders, and, with the consent of both parties, on October 6, 2016, the Court entered a stay, deferring consideration of the 2255 Motion pending final resolution of *United States v. Hill* (2d Cir. No. 14-3872), *United States v. Barrett* (2d Cir. No. 14-2641), and *Sessions v. Dimaya* (S. Ct. No. 15-1498). ECF 601. Although those cases were decided in 2018 (*Hill, Dimaya*) and 2019 (*Barrett*), and held that conspiracy to commit a Hobbs Act robbery could not serve as a predicate for a § 924(c) conviction, no counsel entered a notice of appearance to move to lift the stay of Mr. Pimenteo’s 2255 Motion and brief the issues fully. However, several of Mr. Pimenteo’s co-defendants did, and this Court vacated those co-defendants’ sentences. ECF 675; ECF 692; ECF 704; ECF 723.

The parties have agreed that Mr. Pimenteo should have the opportunity to brief the 2255 Motion before the Court conducts the violation hearing. The parties have conferred and respectfully request the following briefing schedule to set forth their positions on the 2255 Motion:

- Defense submission: **December 1, 2023**
- Government response: **December 15, 2023**
- Defense reply (if necessary): **December 22, 2023**

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Given the foregoing, the parties respectfully request that the Court adjourn Mr. Pimenteo's revocation hearing, currently scheduled for November 13, 2023, to either January 22 or 23, 2024.

We thank the Court for its consideration.

Respectfully submitted,

/s/ Justine Harris

Justine Harris

cc: AUSA Joseph Rosenberg (by ECF)